
HOUSE BILL No. 1499

DIGEST OF INTRODUCED BILL

Citations Affected: IC 11-13-3-4; IC 35-38.

Synopsis: Conditional early release bond. Allows a court when it places a person on probation or the parole board when it releases a person to: (1) require the person to execute a bond with a surety; and (2) set certain conditions of the person's release as part of the bond. Provides that if not later than 180 days after the date a surety receives a written notice of a principal's violation of one of the conditions: (1) the person is placed back in custody by the surety or another person, the bond is exonerated; and (2) the person is not placed back in custody, the surety must pay a penalty equal to the face value of the bond.

Effective: July 1, 2009.

Ruppel

January 14, 2009, read first time and referred to Committee on Courts and Criminal Code.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1499

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 11-13-3-4, AS AMENDED BY P.L.46-2008,
2 SECTION 1, AND AS AMENDED BY P.L.119-2008, SECTION 10,
3 IS CORRECTED AND AMENDED TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) A condition to remaining on
5 parole is that the parolee not commit a crime during the period of
6 parole.
7 (b) The parole board may also adopt, under IC 4-22-2, additional
8 conditions to remaining on parole and require a parolee to satisfy one
9 (1) or more of these conditions. These conditions must be reasonably
10 related to the parolee's successful reintegration into the community and
11 not unduly restrictive of a fundamental right.
12 (c) If a person is released on parole, the parolee shall be given a
13 written statement of the conditions of parole. Signed copies of this
14 statement shall be:
15 (1) retained by the parolee;
16 (2) forwarded to any person charged with the parolee's
17 supervision; and



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(3) placed in the parolee's master file.

(d) The parole board may modify parole conditions if the parolee receives notice of that action and had ten (10) days after receipt of the notice to express the parolee's views on the proposed modification. This subsection does not apply to modification of parole conditions after a revocation proceeding under section 10 of this chapter.

(e) As a condition of parole, the parole board may require the parolee to reside in a particular parole area. In determining a parolee's residence requirement, the parole board shall:

(1) consider:

(A) the residence of the parolee prior to the parolee's incarceration; and

(B) the parolee's place of employment; and

(2) assign the parolee to reside in the county where the parolee resided prior to the parolee's incarceration unless assignment on this basis would be detrimental to the parolee's successful reintegration into the community.

(f) As a condition of parole, the parole board may require the parolee to:

(1) periodically undergo a laboratory chemical test (as defined in IC 14-15-8-1) or series of tests to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9); and

(2) have the results of any test under this subsection reported to the parole board by the laboratory.

The parolee is responsible for any charges resulting from a test required under this subsection. However, a person's parole may not be revoked on the basis of the person's inability to pay for a test under this subsection.

(g) As a condition of parole, the parole board:

(1) may require a parolee who is a sex offender (as defined in IC 11-8-8-4.5) to:

(A) participate in a treatment program for sex offenders approved by the parole board; and

(B) avoid contact with any person who is less than sixteen (16) years of age unless the parolee:

(i) receives the parole board's approval; or

(ii) successfully completes the treatment program referred to in clause (A); and

(2) shall:

(A) require a parolee who is a sex or violent offender (as defined in IC 11-8-8-5) to register with a local law enforcement authority under IC 11-8-8;

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(B) prohibit a parolee who is a sex offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of parole, unless the sex offender obtains written approval from the parole board;

(C) prohibit a parolee who is a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) from residing within one (1) mile of the victim of the sex offender's sex offense unless the sex offender obtains a waiver under IC 35-38-2-2.5; *and*

(D) prohibit a parolee who is a sex offender from owning, operating, managing, being employed by, or volunteering at any attraction designed to be primarily enjoyed by children less than sixteen (16) years of age;

(E) *require a parolee who is a sex offender to consent:*

(i) to the search of the sex offender's personal computer at any time; and

(ii) to the installation on the sex offender's personal computer or device with Internet capability, at the sex offender's expense, of one (1) or more hardware or software systems to monitor Internet usage; and

(F) *prohibit the sex offender from:*

(i) accessing or using certain web sites, chat rooms, or instant messaging programs frequented by children; and

(ii) deleting, erasing, or tampering with information on the sex offender's personal computer with intent to conceal an activity prohibited by item (i).

The parole board may not grant a sexually violent predator (as defined in IC 35-38-1-7.5) or a sex offender who is an offender against children under IC 35-42-4-11 a waiver under subdivision (2)(B) or (2)(C). If the parole board allows the sex offender to reside within one thousand (1,000) feet of school property under subdivision (2)(B), the parole board shall notify each school within one thousand (1,000) feet of the sex offender's residence of the order.

(h) The address of the victim of a parolee who is a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) is confidential, even if the sex offender obtains a waiver under IC 35-38-2-2.5.

(i) As a condition of parole, the parole board may require a parolee to participate in a reentry court program.

(j) As a condition of parole, the parole board:

(1) shall require a parolee who is a sexually violent predator under IC 35-38-1-7.5; and

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(2) may require a parolee who is a sex or violent offender (as defined in IC 11-8-8-5); to wear a monitoring device (as described in IC 35-38-2.5-3) that can transmit information twenty-four (24) hours each day regarding a person's precise location.

(k) As a condition of parole, the parole board may prohibit, in accordance with IC 35-38-2-2.6, a parolee who has been convicted of stalking from residing within one thousand (1,000) feet of the residence of the victim of the stalking for a period that does not exceed five (5) years.

(l) A parolee may be responsible for the reasonable expenses, as determined by the department, of the parolee's participation in a treatment or other program required as a condition of parole under this section. However, a person's parole may not be revoked solely on the basis of the person's inability to pay for a program required as a condition of parole under this section.

(m) As a condition of parole, the parole board may:

(1) release a parolee on bond under IC 35-38-8; and

(2) require the parolee to meet the conditions set by the parole board under IC 35-38-8-5.

SECTION 2. IC 35-38-2-2.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 2.7. As a condition of probation, the court may:**

(1) release a person on bond under IC 35-38-8; and

(2) require the person to meet the conditions set by the court under IC 35-38-8-5.

SECTION 3. IC 35-38-8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 8. Conditional Early Release Bond

Sec. 1. As used in this chapter, "bond" means a written undertaking delivered by a surety to a releasing authority that describes the terms and conditions of the surety's duties and the principal's duties.

Sec. 2. As used in this chapter, "principal" means a person released under this chapter.

Sec. 3. As used in this chapter, "releasing authority" means:

(1) a court acting under IC 35-38-2-2.7; or

(2) the parole board acting under IC 11-13-3-4(m).

Sec. 4. As used in this chapter, "surety" means an insurance company licensed to do business in Indiana.

Sec. 5. (a) A releasing authority may release a principal from

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1 custody by requiring the principal to execute a bond with a surety.

2 (b) The releasing authority:

3 (1) may set the conditions of the principal's release under
4 subsection (c); and

5 (2) shall set the conditions of the principal's release under
6 subsection (d);

7 and shall make the conditions part of the bond.

8 (c) The releasing authority may require the principal to do one
9 (1) or more of the following as a condition of the principal's
10 release:

11 (1) Participate in drug or alcohol testing.

12 (2) Participate in and complete a drug or alcohol recovery
13 program.

14 (3) Refrain from contacting or communicating with any
15 witness involved in the principal's conviction.

16 (4) Refrain from contacting or communicating with any
17 victim involved in the principal's conviction.

18 (5) Obtain and retain gainful employment.

19 (6) Remain on home detention and use a monitoring device (as
20 defined in IC 35-38-2.5-3) that employs a global positioning
21 system satellite service.

22 (7) Abide by specified travel restrictions.

23 (8) Make specified restitution payments.

24 (9) Pay specified fines and court costs.

25 (10) Perform community service.

26 (11) Participate in and complete specified education courses.

27 (12) Meet any other conditions established by the releasing
28 authority.

29 (d) The releasing authority shall set the following as conditions
30 of the principal's release:

31 (1) Require the principal to pay the surety's charge for
32 writing the bond. The amount a surety charges to write a
33 bond may not equal less than ten percent (10%) of the face
34 value of the bond.

35 (2) Require the principal to report personally to the surety at
36 times and places as directed by the releasing authority and the
37 surety.

38 **Sec. 6. A bond posted under this chapter must:**

39 (1) be for a term of one (1) year and allow for annual renewal;

40 (2) be in favor of and payable to the state;

41 (3) require the releasing authority to give the surety written
42 notice if the principal violates a condition of the principal's

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1 release not more than five (5) days after the date the violation
2 occurs; and

3 (4) provide that if not more than one hundred eighty (180)
4 days after the date a surety receives a written notice of a
5 principal's violation under subdivision (3):

6 (A) the principal is placed back in custody by the surety or
7 another person, the bond shall be exonerated; and

8 (B) the principal is not placed back in custody, the surety
9 shall pay a penalty equal to the face value of the bond.

10 Sec. 7. Any time after a surety receives notice that a principal
11 has violated a condition of the principal's release, the surety may
12 arrest the principal and surrender the principal to the nearest
13 county jail. If a principal is surrendered not more than one
14 hundred eighty (180) days after the date the surety receives notice
15 of the violation, the bond shall be exonerated.

16 Sec. 8. If a principal is placed back in custody after violating a
17 condition of the principal's release, the releasing authority may:

18 (1) revoke the bond; or

19 (2) continue the bond by nullifying the violation.

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